



**Rule and Interpretive/Policy Statement Review Checklist**  
(This form must be filled out electronically.)

**This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.**

All responses should be **bolded**.

Document(s) Reviewed (include title): **WAC 458-20-121, Sales of heat or steam – Including production by cogeneration.**

Date last adopted/issued: **6/6/1994**

Reviewer: **PAT MOSES**

Date review completed: **October 23, 2002**

Briefly explain the subject matter of the document(s):

- **This rule provides tax-reporting information for persons who sell heat and/or steam, either directly or as a product of a cogeneration facility. It also explains the tax consequences of a person producing their own fuel to generate heat, steam, or electricity.**

Type an “X” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If “yes,” provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Need:**

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	<b>X</b>	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	<b>X</b>	Have the laws changed so that the document should be revised or repealed? (If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)



<b>X</b>	Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)
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Please explain.

- **WAC 458-20-121 addresses several business activities that are not adequately covered anywhere else in the WAC. Without the information contained in this rule, it would be easy to mistakenly report or assess tax on these activities under manufacturing. This rule is necessary to promote consistent application of tax by both taxpayers and agency personnel.**

**3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:**

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
<b>X</b>		Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
<b>X</b>		Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	<b>X</b>	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is "yes" to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.



- Refer to earlier review of this rule, dated 5/2000. There are no additional documents to add since that time.

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

- **This rule is clear and concise. There have been very few additional administrative determinations needed since the rule's last revision in 1990. This supports a conclusion that the rule is clear and effective.**

**5. Intent and Statutory Authority:**

YES	NO	
X		Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If "no," identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

- **The department's authority to make and publish rules is contained in RCW 82.01.060(2) and RCW 82.32.300.**

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.



- **The subject matter and taxes in Rule 121 are the specific domain of the Department of Revenue.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

- **This is an interpretive rule that imposes no new or additional administrative burdens on businesses that are not already imposed by the law.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

- **This rule aids taxpayers by giving specific instructions and examples. The rule also promotes the consistent application of the related statutes on the part of DOR staff.**

**9. LISTING OF DOCUMENTS REVIEWED:** Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **There have been no additional implementing statutes since this rule’s last review in 2000.**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **There have been no additional interpretive and / or policy statements since this rule’s last review in 2000.**

Court Decisions: **None**

Board of Tax Appeals Decisions (BTAs): **None**



Appeal Division Decisions (WTDs): **None**

Attorney General Opinions (AGOs): **None**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed): **There have been no additional other documents since this rule's last review in 2000.**

#### 10. Review Recommendation:

- ☐ **Amend**
- ☐ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- ☒ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**The rule is correct as is. No significant changes in law have occurred for this topic since the rule's last revision in 1994. ETA 109 contains information that the Department should consider adding when Rule 121 is next revised, but there is no need to revise this rule at this time.**

11. Manager action: Date: \_\_\_\_\_

☐ Reviewed and accepted recommendation

Amendment priority:

- ☐ 1  
☐ 2  
☐ 3  
☐ 4